

or non-profit entity established by a State, consistent with § 155.110.

[77 FR 11718, Feb. 27, 2012, as amended at 78 FR 54134, Aug. 30, 2013]

§ 155.105 Approval of a State Exchange.

(a) *State Exchange approval requirement.* Each State Exchange must be approved by HHS by no later than January 1, 2013 to offer QHPs on January 1, 2014, and thereafter required in accordance with § 155.106. HHS may consult with other Federal Government agencies in determining whether to approve an Exchange.

(b) *State Exchange approval standards.* HHS will approve the operation of an Exchange established by a State provided that it meets the following standards:

(1) The Exchange is able to carry out the required functions of an Exchange consistent with subparts C, D, E, F, G, H, and K of this part unless the State is approved to operate only a SHOP by HHS pursuant to § 155.100(a)(2), in which case the Exchange must perform the minimum functions described in subpart H and all applicable provisions of other subparts referenced therein;

(2) The Exchange is capable of carrying out the information reporting requirements in accordance with section 36B of the Code, unless the State is approved to operate only a SHOP by HHS pursuant to § 155.100(a)(2); and

(3) The entire geographic area of the State is in the service area of an Exchange, or multiple Exchanges consistent with § 155.140(b).

(c) *State Exchange approval process.* In order to have its Exchange approved, a State must:

(1) Elect to establish an Exchange by submitting, in a form and manner specified by HHS, an Exchange Blueprint that sets forth how the Exchange meets the standards outlined in paragraph (b) of this section; and

(2) Demonstrate operational readiness to execute its Exchange Blueprint through a readiness assessment conducted by HHS.

(d) *State Exchange approval.* Each Exchange must receive written approval or conditional approval of its Exchange Blueprint and its performance under the operational readiness assessment

consistent with paragraph (c) of this section in order to be considered an approved Exchange.

(e) *Significant changes to Exchange Blueprint.* The State must notify HHS in writing before making a significant change to its Exchange Blueprint; no significant change to an Exchange Blueprint may be effective until it is approved by HHS in writing or 60 days after HHS receipt of a completed request. For good cause, HHS may extend the review period by an additional 30 days to a total of 90 days. HHS may deny a request for a significant change to an Exchange Blueprint within the review period.

(f) *HHS operation of an Exchange.* (1) If a State does not elect to operate an Exchange under § 155.100(a)(1) or an electing State does not have an approved or conditionally approved Exchange pursuant to § 155.100(a)(1) by January 1, 2013, HHS must (directly or through agreement with a not-for-profit entity) establish and operate such Exchange within the State. In this case, the requirements in § 155.120(c), § 155.130 and subparts C, D, E, F, G, H, and K of this part will apply.

(2) If an electing State has an approved or conditionally approved Exchange pursuant to § 155.100(a)(2) by January 1, 2013, HHS must (directly or through agreement with a not-for-profit entity) establish and operate an Exchange that facilitates the purchase of health insurance coverage in QHPs in the individual market and operate such Exchange within the State. In this case, the requirements in § 155.120(c), § 155.130 and subparts C, D, E, F, G, and K of this part will apply to the Exchange operated by HHS.

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§ 155.106 Election to operate an Exchange after 2014.

(a) *Election to operate an Exchange after 2014.* A State electing to seek approval of its Exchange later than January 1, 2013 must:

(1) Comply with the State Exchange approval requirements and process set forth in § 155.105;